

Message Text

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DRAFTED BY D/LOS:ABERLIND/S/AR:AGJAMES/MW
APPROVED BY S/AR:ELRICHARDSON
AF/I:LSHURTLEFF

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FM SECSTATE WASHDC
TO AMEMBASSY YAOUNDE
INFO USMISSION USUN NEW YORK

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FROM AMBASSADOR RICHARDSON FOR AMBASSADOR SMYTHE

E.O. 11652:N/A

TAGS: PLOS

SUBJECT: LETTER FROM AMBASSADOR RICHARDSON TO PAUL ENGO

--

1. I WOULD APPRECIATE IT IF YOU WOULD DELIVER THE LETTER
IN THE FOLLOWING PARAGRAPH TO PAUL ENGO. THE LETTER PROVIDES
MY VIEWS ON HOW BEST TO SUSTAIN THE MOMENTUM BEGUN IN GENEVA
AND HOW WE MIGHT PROCEED AT THE AUGUST 21 NEW YORK RESUMP-
TION OF THE SEVENTH SESSION, INCLUDING A SPECIFIC PROPOSAL
WITH RESPECT TO ENGO'S ROLE. I BELIEVE IT WOULD BE VERY
HELPFUL IF YOU COULD WALK HIM THROUGH THE LETTER ORALLY. WE
WOULD OF COURSE WELCOME HIS REACTION AND ANY OTHER VIEWS HE
WISHES TO CONVEY. THE STATEMENT REFERRED TO IN THE TEXT OF
MY LETTER IS MY STATEMENT OF MAY 22 WHICH WAS CABLED TO ALL
POSTS. THE SUMMARY WHICH I WOULD APPRECIATE YOUR ENCLOSING
IN MY LETTER TO ENGO IS A LIST OF SEABEDS WORK REMAINING TO
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BE DONE AND FOLLOWS AT THE END OF THIS TELEGRAM.

2. BEGIN TEXT:

DEAR PAUL:

ALTHOUGH WE ARE STILL DIGESTING THE RESULTS OF THE GENEVA
MEETING, I WANTED TO SHARE WITH YOU SOME PRELIMINARY THOUGHTS
ON THE FORTHCOMING CONTINUATION IN NEW YORK.

AS I TRIED TO SAY IN THE ENCLOSED STATEMENT, I THINK THAT THE SEVENTH SESSION CAN TAKE CONSIDERABLE SATISFACTION IN ITS ACCOMPLISHMENTS TO DATE. BUT THE VERY FACT THAT GAINS WERE MADE AND THAT MOMENTUM WAS DEVELOPED CREATES A NEW IMPERATIVE--ONE TO WHICH I AM SURE YOU ARE ALREADY GIVING MUCH THOUGHT. IT IS, OF COURSE, TO ASSURE THAT THE GAINS ARE CONSOLIDATED AND THAT THE MOMENTUM IS SUSTAINED DURING OUR FOUR WEEKS IN NEW YORK. THIS CAN ONLY BE ASSURED IF THE RESUMED SESSION ITSELF PRODUCES FURTHER CONCRETE ACCOMPLISHMENTS THAT BRING US SUBSTANTIALLY CLOSER TO A TREATY.

IN VIEW OF THE SHORT TIME AVAILABLE WE MUST THEREFORE SELECT OUR GOALS FOR THE RESUMED SESSION WITH GREAT CARE, ENSURING ON THE ONE HAND THAT WE TAKE EVERY OPPORTUNITY TO TRY TO RESOLVE OUTSTANDING ISSUES AND, ON THE OTHER HAND, NOT TO SO DILUTE OUR EFFORTS AS TO PREJUDICE THE ACHIEVEMENT OF CONCRETE RESULTS ON ANY ISSUE. OUR POINT OF DEPARTURE, THEN, IS THE QUESTION: WHAT CAN WE REALISTICALLY HOPE TO ACCOMPLISH DURING OUR FOUR WEEKS IN NEW YORK? AS SHIREYAMERASINGHE STATED IN OUR FINAL PLENARY, WE SHALL BE PICKING UP IN NEW YORK WHERE WE LEFT OFF IN GENEVA.

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WORK ON SEABEDS ISSUES MUST SURELY COME AT THE TOP OF THE LIST OF WHAT NEEDS TO BE DONE AT NEW YORK. SO I THINK IT PARTICULARLY IMPORTANT TO DISCUSS WITH YOU IN SOME DETAIL AN APPROACH WHICH I HOPE WILL COMMEND ITSELF TO YOU AS YOU REFLECT ON HOW YOU SEE THE ORGANIZATION OF WORK UNDER YOUR DIRECTION.

(1) THE TEXTS PRODUCED BY NEGOTIATING GROUP ONE WHILE PREDICTABLY SUBJECT TO RESERVATIONS BY VARIOUS PARTIES, ARE NEVERTHELESS ACCEPTED BY ALL SIDES AS THE BASIS FOR FURTHER NEGOTIATION ON THESE ISSUES. GIVEN THE CONSIDERABLE WORK THAT REMAINS TO BE DONE ON OTHER ARTICLES, I BELIEVE IT WOULD BE A MISTAKE TO GO BACK OVER THESE TEXTS IN THE NEW YORK SESSION. IT WOULD BE BETTER TO CONSIDER ANY CHANGES OR CORRECTIONS LATER IN THE LIGHT OF THE SEABED PACKAGE AS A WHOLE. AS THE ENCLOSED SUMMARY OF SEABEDS WORK WHICH WE THINK REMAINS TO BE DONE MAKES CLEAR, THERE ARE STILL A NUMBER OF SEABEDS ISSUES THAT HAVE NOT YET BEEN ADEQUATELY DEALT WITH. I WOULD SUGGEST TO YOU, THEREFORE, THAT NEGOTIATING GROUP ONE MOVE ON TO ONE OR MORE OF THESE. THE MOST APPROPRIATE, WE THINK WOULD BE ANNEX II AND THE RELATED QUESTION OF ITS APPLICATION TO THE ENTERPRISE. IT SEEMS TO ME THAT FRANK NJENGA MIGHT BE TASKED UNDER YOUR GUIDANCE TO CONTINUE THE WORK OF NEGOTIATING GROUP ONE BY DEALING WITH THIS ISSUE.

(2) IN THE CASE OF FINANCIAL ARRANGEMENTS, THERE IS A CLEAR NEED FOR ADDITIONAL WORK. THE TEXTS PRODUCED IN GENEVA HELP CONSIDERABLY TO CLARIFY THE DIFFICULT ISSUES INVOLVED HERE. HAVING MADE GOOD PROGRESS ON THIS ISSUE THE NEGOTIATING GROUP UNDER TOMMY KOH COULD VERY USEFULLY CONTINUE ITS LABORS.

(3) UNDER YOUR ABLE DIRECTION, THE ISSUE OF THE COMPOSITION AND VOTING OF THE COUNCIL WAS EXHAUSTIVELY DISCUSSED IN GENEVA. I AM NOT SURE THAT A RESUMPTION OF THIS DIS-

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CUSSION IN NEW YORK WOULD LEAD TO ANY CONSTRUCTIVE RESULT. AS YOU ABOVE ALL OTHERS KNOW, THE ISSUE IS EXTREMELY DIFFICULT; INDEED, WE QUESTION WHETHER ANY SOLUTION IS POSSIBLE BEFORE ALL THE OTHER PIECES OF THE SEABED MINING PUZZLE HAVE FALLEN OR ARE FALLING INTO PLACE. IN THE CIRCUMSTANCES, WE WONDER WHETHER YOU WOULD BE WILLING TO APPLY YOURSELF TO DISPUTE SETTLEMENT, WHICH HAS A CRUCIAL BEARING ON THE WILLINGNESS OF INVESTORS TO RISK VAST SUMS ON SEABED MINING, AND A MATTER THE IMPORTANCE OF WHICH YOU HAVE LONG RECOGNIZED. OR YOU MAY WISH TO CONSIDER DESIGNATING SOMEONE ELSE TO WORK UNDER YOUR GUIDANCE TO ADDRESS THIS MATTER.

AS TO NON-SEABEDS ISSUES, YOU MAY FIND IT INTERESTING TO HAVE OUR GENERAL VIEWS. NEGOTIATING GROUPS FOUR AND FIVE SEEM TO HAVE REACHED SUBSTANTIAL CONSENSUS AND THE WIND UP OF THEIR WORK DEPENDS ON RESOLVING THE ISSUE OF THE DEFINITION OF THE MARGIN. WE HOPE THE RESUMED SESSION WILL CONCENTRATE HARD ON TRYING TO RESOLVE THE MARGIN ISSUE. WE DOUBT THAT IT IS LIKELY THAT THE DELIMITATION ISSUE CAN BE RESOLVED AT THE RESUMED SESSION, ALTHOUGH PROGRESS ON THE DISPUTE SETTLEMENT ASPECT MIGHT BE POSSIBLE.

AS TO OTHER ISSUES, WE REGARD THE WORK OF COMMITTEE II AS SUCCESSFULLY COMPLETED ONCE THE OUTSTANDING ISSUES MENTIONED ABOVE HAVE BEEN SETTLED. THE SAME MIGHT BE SAID FOR DISPUTE SETTLEMENT AND FOR COMMITTEE III, PROVIDED THE SCIENCE PROBLEM CAN BE RESOLVED AND THE POLLUTION PACKAGE SURVIVES.

I WOULD WELCOME YOUR THOUGHTS ON HOW WE CAN MOVE AHEAD ON COMMITTEE I MATTERS AT NEW YORK. UNDER YOUR GUIDANCE

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THE COMMITTEE AND ITS CONSTITUENT NEGOTIATING GROUPS DID

MOST CONSTRUCTIVE WORK AT GENEVA. I WOULD THEREFORE STRONGLY RECOMMEND THAT YOU CONSIDER FAVORABLY NEGOTIATING GROUPS ONE AND TWO CONTINUING THEIR EFFORTS, TACKLING FRESH ISSUES WHICH FALL WITHIN THEIR COMPETENCE. IN THE CASE OF NEGOTIATING GROUP ONE THIS COULD MEAN FOCUSING ATTENTION ON ANNEX II AND ITS APPLICATION TO THE ENTERPRISE. IN THE CASE OF NEGOTIATING GROUP TWO, IT WOULD MEAN NEGOTIATING THE DEFINITION OF SPECIFIC FINANCIAL OBLIGATIONS OF MINERS. IF YOU AGREE WITH MY ESTIMATE OF THE DESIRABILITY OF DEFERRING FURTHER CONSIDERATION AT THIS TIME OF THE PROBLEMS OF THE COUNCIL, USEFUL WORK COULD BE DONE BY YOU OR YOUR DESIGNEE ON DISPUTE SETTLEMENT ISSUES ON SEABEDS.

I HOPE I MAY HAVE THE PLEASURE OF LEARNING YOUR REACTION TO THESE IDEAS BEFORE WE GET TO NEW YORK, FOR YOURS IS AN INDISPENSABLE ROLE IN OUR COLLECTIVE EFFORT TO MOVE TOWARD AN ACCEPTABLE TREATY. I LOOK FORWARD TO SEEING YOU IN NEW YORK AND CONTINUING OUR COLLABORATION WHICH I ASSURE YOU I VALUE GREATLY.

WITH WARM REGARD, SINCERELY, ELLIOT.

END TEXT

3. FOLLOWING IS ENCLOSURE TO THE ABOVE LETTER:

SEABEDS WORK REMAINING TO BE DONE

MAJOR ISSUES:

(1) THE COUNCIL - COMPOSITION AND VOTING - ARTICLE 159.

(2) ANNEX II - SYSTEM OF EXPLOITATION, INCLUDING THE BANKING SYSTEM - PARAS. 2, 3, 4 AND 5.
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(3) APPLICABILITY TO THE ENTERPRISE OF PART OR ALL OF ANNEX II OR OF COMPARABLE OBLIGATIONS - PARA. 6.

(4) ADDITION OF SAFEGUARDS FOR THOSE WHO NEGOTIATE JOINT VENTURES WITH THE ENTERPRISE - EITHER ANNEX II OR ANNEX III.

(5) FINANCIAL TERMS OF CONTRACTS - AMOUNTS - PERCENTAGES AND ELIMINATION OR REDUCTION OF ANNUAL CHARGE TO MINE - ANNEX II, PARA. 7.

(6) DISPUTE SETTLEMENT - SEC. 6 OR PART XV AND ANNEX VI, PARAS. 15 AND 37-41, PLACE MORE EMPHASIS ON ARBITRATION AND CREATE A COMMERCIAL ARBITRATION OPTION FOR CONTRAC-

TUAL AND TECHNOLOGY TRANSFER DISPUTES.

(7) REVIEW CONFERENCE - ART. 153(6) - THE MORATORIUM
PROBLEM.

OTHER ISSUES:

(1) DISTRIBUTION OF BENEFITS - ART. 140 - EITHER LIMIT
TO STATES PARTIES OR MAKE CLEAR THAT AN EXTERNAL DISTRI-
BUTION SYSTEM WILL BE USED.

(2) CHANGE THE TITLE OF SEC. 3 TO "CONDUCT IN THE AREA."

(3) MAKE SOME DRAFTING CLARIFICATIONS IN ART. 143 ON
SCIENTIFIC RESEARCH.

(4) ART. 150 BIS - CHANGE "INTERESTED PARTIES" TO
"MAJOR PRODUCERS AND CONSUMERS" AND DELETE THE SENTENCE
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THAT SAYS THE AUTHORITY REPRESENTS ALL PRODUCTION FROM
THE AREA. ALSO CLARIFY FUNDING OF COMPENSATION SYSTEM.

(5) DECIDE THE SITE OF THE AUTHORITY - ART. 154.

(6) IF POSSIBLE, RESTORE THE RECALL PROVISION ON ASSEMBLY
VOTING - ART. 157.

(7) CHANGE METHOD OF SELECTION OF THE MEMBERS OF THE
SEABED DISPUTES CHAMBER - ART. 158.

(8) GIVE THE COUNCIL FUNCTIONS CONCERNING COMMODITY
AGREEMENTS - ART. 160.

(9) DELETE "BRAZIL CLAUSE" ON TECHNOLOGY TRANSFER AND
PARA. 5D (III) OF ANNEX II ON TIMING OF NEGOTIATIONS.

(10) DECIDE WHETHER PARTS OR ALL OF THE ANNEXES COULD BE
MADE SIMPLY THE FIRST REGULATIONS OF THE AUTHORITY,
SUBJECT TO LATER REVISION BY THE COUNCIL.

(11) CLARIFY AND LIMIT THE PRIVILEGES AND IMMUNITIES OF
THE ENTERPRISE - ANNEX III. NEWSOM

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